

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Abigail Shuster	Team: Squad #15	CCRB Case #: 201409178	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 08/22/2014 9:18 PM	Location of Incident: § 87(2)(b)	Precinct: 121	18 Mo. SOL 2/22/2016	EO SOL 2/22/2016	
Date/Time CV Reported Sat, 09/06/2014 8:16 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 09/06/2014 8:16 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			NARCBSI
2. DT3 Mathew Reich	00122	933211	NARCBSI
3. DT3 Nikolaos Stefopoulos	936	944294	NARCBSI
4. Officers			NARCBSI

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT John Ryan	00000	940685	NARCBSI
2. SGT Steven Marshall	28	938942	NARCBSI
3. DT3 Stacy Meigs	03273	931824	NARCBSI
4. DT3 Clyde Moyer	4072	946038	NARCBSI
5. DT3 Mark Scarlatelli	06287	937502	NARCBSI
6. DT3 Steven Sposito	05103	926161	NARCBSI
7. DT3 Dmitriy Shery	00676	940737	NARCBSI

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Nikolaos Stefopoulos	Abuse: Det. Nikolaos Stefopoulos threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
B. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
C. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
D. An officer	Force: An officer used a chokehold against § 87(2)(b)	§ 87(2)(b)
E.DT3 Mathew Reich	Force: Det. Mathew Reich used physical force against § 87(2)(b)	§ 87(2)(b)
F.DT3 Nikolaos Stefopoulos	Force: Det. Nikolaos Stefopoulos used physical force against § 87(2)(b)	§ 87(2)(b)
G.DT3 Nikolaos Stefopoulos	Discourtesy: Det. Nikolaos Stefopoulos spoke rudely to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.DT3 Nikolaos Stefopoulos	Force: Det. Nikolaos Stefopoulos struck § 87(2)(b) against the ground.	

Case Summary

On August 22, 2014, at approximately 9:18pm, § 87(2)(b) was walking to § 87(2)(b) in Staten Island when he saw two bags of marijuana on the ground. On the next block, § 87(2)(b) encountered a male – later determined to be an undercover police officer – who asked him whether he had any marijuana. § 87(2)(b) returned to the bags he had seen, picked them up, and walked back to conduct a sale with the individual.

§ 87(2)(b) then entered § 87(2)(b) when Det. Nikolaos Stefopoulos and Det. Dmitry Shery from Narcotics Borough Staten Island, having received a communication in regards to the sale, approached § 87(2)(b) and informed him that he was under arrest. Det. Stefopoulos said, “Open your fucking hand before I crush you!” (**Allegation A**). An officer then allegedly grabbed § 87(2)(b) by the arm and punched him two or three times on the left side of his face before multiple officers slammed him to the ground (**Allegation B**).

Once on the ground, an officer allegedly placed his knee on § 87(2)(b)'s back while a different officer grabbed the front of § 87(2)(b)'s neck with both hands, applying pressure for three seconds (**Allegations C and D**). During the struggle, Det. Matthew Reich punched § 87(2)(b) in the face four or more five times (**Allegation E**). Det. Nikolaos Stefopoulos kicked and kned § 87(2)(b) in the stomach and struck § 87(2)(b)'s back with his palm (**Allegation F**). Det. Stefopoulos said to § 87(2)(b) “So why’re you fighting the fucking cops, you idiot?” (**Allegation G**). Det. Stefopoulos also lifted § 87(2)(b) into the air and forced him to the ground (**Allegation H**). After § 87(2)(b) was handcuffed, Det. Stefopoulos said to § 87(2)(b) “Shut the fuck up dude, you’re an idiot!” (**Allegation G**). § 87(2)(b) was arrested as a result of this incident.

This case was originally assigned to Inv. Stanislav Sazaonov and was reassigned to Inv. Alexander Opoku-Agyemang on December 5, 2014. It was then reassigned to Inv. Abigail Shuster for closure on June 17, 2015.

Mediation, Civil and Criminal Histories

- Because § 87(2)(b) was arrested as a result of this incident, it was deemed ineligible for mediation.
- § 87(2)(b)
- A notice of claim request was filed September 18, 2015, the results of which will be added to the case file upon receipt.

Civilian and Officer CCRB Histories

- This is the first and only complaint filed by § 87(2)(b) (encl. A8).
- § 87(2)(b)
- Det. Stefopoulos, who has been promoted to the rank of sergeant since the incident, has been a member of the NYPD for eight years. He has been the subject of 15 previous CCRB allegations involving seven cases, resulting in two substantiated allegations. He is the subject of five additional allegations involving two cases, both of which are currently under investigation. § 87(2)(g) (encl. A1-A2).
- Det. Reich has been a member of the NYPD for twelve years and has been the subject of 74 prior CCRB allegations, involving 25 cases and resulting in five substantiated allegations. All five substantiated allegations were Abuse of Authority allegations; Det.

Reich has been the subject of 11 force allegations, one of which was exonerated and the remaining were closed as unsubstantiated or were closed without performing a full investigation. Two cases, 201504475 and 201506807, remain under investigation (encl. A3-A7).

Findings and Recommendations

Explanation of Subjection Officer Identification

§ 87(2)(b) was unable to provide detailed descriptions of most of the officers with whom he interacted and was also unable to specify which officers performed which actions (encl. E2-E3). Det. Stefopoulos was determined to be a subject officer of abuse of authority, force, and discourtesy allegations based upon the video footage as well as upon the actions that he acknowledged taking. In a photo viewing, § 87(2)(b) was still unable to meaningfully distinguish between officers (encl. E73).

Where there were obstructions or lapses in the video footage, and in the absence of officers admitting to performing certain actions, force allegations are being pled against “an officer” or “officers.”

Allegation A - Abuse of Authority –Det. Nikolaos Stefopoulos threatened § 87(2)(b) with the use of force.

Less than ten seconds after § 87(2)(b) was approached by the officers inside of the deli, a male officer is heard at 1:20 on the video footage shouting, “Open your fucking hand before I crush you!”(encl. C3, IA #130).

Although there are multiple officers in the area, only Det. Stefopoulos and Det. Shery are actually interacting with § 87(2)(b) at 1:20 on the video. With respect to the other officers, Det. Meigs (who is female) is seen repositioning herself around Det. Stefopoulos at 1:20; Det. Marshall is in the process of placing § 87(2)(b)'s beverage onto the shelving rack at 1:20; and Det. Reich has just entered the store and has not yet joined the struggle at 1:20. Det. Shery, who was positioned at § 87(2)(b)'s legs at 1:20, speaks with a distinctive accent which does not match the statement made (encl. C1-C4). Moreover, Det. Stefopoulos acknowledged having said “Give us your fucking hands!” at 2:48 on the recording, which not only sounds to be the same voice as the one threatening to use force, but Det. Stefopoulos’s admission of making the former increases the likelihood that he also made the latter, as the statements are similar (encl. F47-F48). Although Det. Stefopoulos denied having said, “Open your fucking hand before I crush you!” the investigation determined by a preponderance of the evidence that Det. Stefopoulos did make this statement.

An officer may make a threat of force, if not egregious, only when it performs a legitimate police function, particularly if it is used in lieu of further escalation of violence. NYPD v. Briscoe, OATH No. 1328/00 (encl. viii- xxxiii).

§ 87(2)(g)

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Allegation B - Force - Officers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that five officers entered the location and instructed him to put his hands up. After § 87(2)(b) did so, an officer whom § 87(2)(b) described as a muscular white male in his early 20s, 6'0" tall, with blonde hair and in plainclothes, punched § 87(2)(b) on the left side of the face two or three times. An officer – possibly the same one or a different one – continued punching § 87(2)(b) as multiple officers then slammed § 87(2)(b) onto the ground forcefully, where he landed on his back (encl. E2-E3).

Both Det. Shery and Det. Stefopoulos denied having punched § 87(2)(b) prior to § 87(2)(b) going to the ground (encl. F47-F48, encl. F55-F57). The video footage and officer statements confirm that Det. Shery and Det. Stefopoulos were the first officers to approach § 87(2)(b) and were the only officers present when § 87(2)(b) went to the ground (encl. C1-C4, IA # 129). It is equally evident in the video footage that no officer punched § 87(2)(b) during these initial moments. Though § 87(2)(b) did sustain injuries to his face as a result of this incident, the injuries were consistent with force that was used on him later on in his struggle with the officers. Based on the video footage, the investigation therefore determined that § 87(2)(b) was not punched by any officer prior to making contact with the ground.

Similarly, the way in which § 87(2)(b) described being taken to the ground differs from the officers' statements and is refuted by the video footage. Det. Stefopoulos testified that, as § 87(2)(b) was attempting to flee, he grabbed hold of § 87(2)(b)'s shirt, resulting in both § 87(2)(b) and himself falling to the ground (encl. F47-F48). Det. Shery testified that additional officers including Det. Marshall, Det. Reich, Det. Meigs, Det. Scarlatelli and Sgt. Ryan, had all arrived simultaneously to the location while § 87(2)(b) was still upright; all of the officers then grabbed ahold of § 87(2)(b) and all fell to the ground. Det. Shery specified that the officers did not take § 87(2)(b) to the ground intentionally (encl. F55-F57). The video footage corroborates both Det. Shery and Det. Stefopoulos's assertion that § 87(2)(b) went to the ground through falling rather than through being slammed, and it corroborates most closely Det. Stefopoulos's statement that only he and Det. Shery were present at the moment at which § 87(2)(b) went to the ground (encl. C1-C4). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation C - Force –An officer used physical force against § 87(2)(b)

Allegation D - Force –An officer used a chokehold against § 87(2)(b)

§ 87(2)(b) alleged that, after being taken to the ground, one of the male officers placed his knee on § 87(2)(b)'s back, while a second officer (whom he described as a slimly built white female in her 20s, 5'5"-5'6" tall, with blonde hair and in plainclothes) held onto his legs. § 87(2)(b) testified that a different male officer grabbed § 87(2)(b) by the neck with both hands, applying pressure for three seconds (encl. E4). Though his breathing was not restricted, the pressure caused him to hyperventilate.

All of the officers interviewed for this case testified that a knee was never placed on § 87(2)(b)'s back. All six of the officers denied having made contact with § 87(2)(b)'s neck or seeing any other officer do so (encl. F55-F57, F47-F48, F39-F41, F16, F8, F64).

§ 87(2)(g)

Allegation E – Force – Det. Matthew Reich used physical force against § 87(2)(b)

While continuing to struggle on the ground, § 87(2)(b) alleged that two officers (the first of whom he described as a muscular white male in his early 20s, 6'0" tall, with blonde hair and in plainclothes, and the second of whom he could not describe) punched him in the face, totaling six or seven punches. He specified that the white male officer described was wearing a ring, which resulted in § 87(2)(b) sustaining a bloody lip and a laceration under his left eye (encl. E2-E3).

All of the officers denied punching § 87(2)(b) in the face; Det. Shery, Sgt. Ryan, and Det. Marshall stated that they were not wearing rings on the date of the incident, and Det. Reich stated that he wears a wedding ring on his left hand but that he is right-handed. None of the officers reported having witnessed another officer punch § 87(2)(b) in the face (encl. F55-F57, F47-F48, F39-F41, F16, F8, F64).

The video footage shows Det. Reich, the officer positioned to the upper left of the frame, make four or five consecutive striking motions with his right arm between 1:50-1:53 on the recording (encl. C2, footage in IA # 129). Because several officers' bodies surrounded § 87(2)(b)s, Det. Reich's actual hands are not visible, nor is the area of § 87(2)(b)s body where they made contact. § 87(2)(b)s feet, however, are visible in the lower right corner of the frame, and the angle of § 87(2)(b)s body indicates that Det. Reich was positioned by § 87(2)(b)s obscured head.

§ 87(2)(g)

§ 87(2)(b) the video clearly shows Det. Reich striking § 87(2)(b) at least four times.

§ 87(2)(b) who was treated at § 87(2)(b) on the date of the incident, sustained an 8-millimeter laceration to his upper left cheek with minor swelling, as well as multiple smaller lacerations to his lip area (see medical records). None of the officers were able to specify at what point in the incident this injury was sustained, though the majority of them did testify to having observed it. Det. Shery specified that the injury had not been present prior to § 87(2)(b)s apprehension (encl. F55-F57). § 87(2)(b)s arrest photograph, as well as photographs provided by IAB, show injuries consistent with those described, and the command log notes that § 87(2)(b) sustained swelling to his eye and lip (encl. E8-E12, G5). The video concludes with officers and store employees cleaning § 87(2)(b)s blood off of the deli floor.

Officers are to use the minimum force necessary. NYPD Patrol Guide Procedure 203-11 (encl. i-ii).

§ 87(2)(g)

Allegation F – Force – Det. Nikolaos Stefopoulos used physical force against § 87(2)(b)

§ 87(2)(b) alleged that he was kicked by an officer four to five times on the right side of his body while he was on the ground. He denied having resisted arrest, kicked, or punched any officer. Although he acknowledged “[trying] to get out from the officers,” he testified that he did not tense his body or flail his arms (encl. E2-E3).

In viewing the video footage, Det. Stefopoulos acknowledged having used his foot to “thrust” § 87(2)(b) s back. He also acknowledged having struck § 87(2)(b) twice in the center of his back with the palm of his hand, as well as having kned § 87(2)(b) twice in the stomach. Det. Stefopoulos explained that he had used his foot in an attempt to flip § 87(2)(b) onto his chest, and that he had struck § 87(2)(b) in the back and kned him in the stomach in order to coerce compliance (encl. F47-F48).

Although § 87(2)(b) did not report being kned in the stomach or punched in the back by any officer, the video footage and Det. Stefopoulos’s testimony establish that this force did occur in addition to the kicks. The video footage additionally shows § 87(2)(b) constantly in motion, as well as him kicking at officers during the nearly four-minute struggle with the officers (encl. C1-C4).

Officers are to use the minimum force necessary. NYPD Patrol Guide Procedure 203-11 (encl. i-ii).

Det. Shery, Det. Marshall, Det. Reich, Sgt. Ryan, and Det. Meigs, all testified that § 87(2)(b) was resisting arrest in the manner already described (encl. F55-F57, F47-F48, F39-F41, F16, F8, F64).

§ 87(2)(g)

Allegation G - Discourtesy –Det. Nikolaos Stefopoulos spoke rudely toward § 87(2)(b)

It is undisputed that, after § 87(2)(b) was apprehended, Det. Stefopoulos said to him, “Shut the fuck up dude, you’re an idiot,” before leading him out of the store. The video captures this statement at 4:51, and Det. Stefopoulos acknowledged calling § 87(2)(b) “a fucking idiot” (encl. C1-C4, F47-F48). Det. Stefopoulos justified his statements by explaining that he was dumbfounded that § 87(2)(b) was resisting arrest to such an extent over a misdemeanor charge.

An officer is also heard saying, “Why’re you fighting the fucking cops, you idiot?” at 4:08 on the video footage. Although Det. Stefopoulos did not acknowledge having made this statement, it is similar to the statement that he did acknowledge making (and the voices sound to be the same). No other officer acknowledged making this statement, or acknowledged using any discourteous language toward § 87(2)(b). The investigation therefore determined that Det. Stefopoulos was responsible for making both of these statements.

An officer may not use profanity toward a civilian without a justifiable reason to do so, such as the need to maintain control or gain compliance during a stressful street encounter. NYPD v. Carey, OATH Index No. 579/99 (encl. iii-vii).

Between 2:48 and 4:04 on the video, Det. Stefopoulos is heard saying to § 87(2)(b) “Give us your fucking hands,” (encl. C1-C4). Det. Stefopoulos acknowledged making this statement, explaining that the situation was becoming increasingly heightened as time elapsed and that he wished to communicate to § 87(2)(b) that he was being issued a serious and lawful command (encl. F47-F48). § 87(2)(g)

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§ 87(2)(g)

Allegation H - Force - Det. Nikolaos Stefopoulos struck § 87(2)(b) against the ground.

It is undisputed that Det. Stefopoulos lifted § 87(2)(b) off of the ground and into the air, before attempting to place him onto his front. § 87(2)(b) stated that officers repeatedly “tried to turn him” (encl. E4). Det. Stefopoulos acknowledged having executed this maneuver and the video footage likewise captures Det. Stefopoulos executing it (encl. F47-F48, C1-C4).

Det. Stefopoulos testified that he flipped § 87(2)(b) from his front to his chest in such a manner three times; twice in quick succession, and a third time at some later point. He explained that all three flips were used to get § 87(2)(b)’s hands into the proper position to be handcuffed. Det. Stefopoulos denied having “slammed” § 87(2)(b)’s face onto the ground, but he acknowledged having instructed other officers to “Lift him up, turn him around, and slam him!” which he had said because the previous two flips were unsuccessful and he therefore wanted to “put him down hard” so that he could more quickly apprehend him (encl. F47-F48).

The video footage captures Det. Stefopoulos’s third flip at 3:29 – 3:35 on the second camera angle (encl. C1-C4). § 87(2)(b) is first seen being lifted up in the air by Det. Stefopoulos and Det. Marshall, such that his head is about six inches lower than the heads of the officers standing over him. Det. Stefopoulos is then seen picking § 87(2)(b) up higher before forcing him back to the ground, leaning his body over § 87(2)(b) as he makes contact with the ground. The back of § 87(2)(b)’s head is visible as he goes back to the ground, indicating that he landed on his front.

Officers are to use the minimum force necessary. NYPD Patrol Guide Procedure 203-11 (encl. i-ii).

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§ 87(2)(g) [Redacted text block]

Squad: 15

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date